

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

LEIGH ANN HOUSEL,)	Cause No. CV 06-26-H-DWM
)	
Petitioner,)	
)	
vs.)	ORDER
)	
WARDEN JO ACTON,)	
)	
Respondent.)	
_____)	

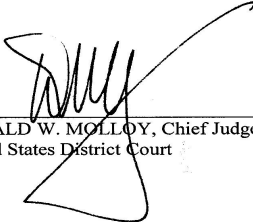
United States Magistrate Carolyn S. Ostby entered Findings and Recommendation in this matter on June 14, 2006. Leigh Ann Housel did not file objections and is therefore not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Ostby concluded that Housel's Petition for Writ of Habeas Corpus should be dismissed without prejudice for failure to exhaust her state court remedies. Nothing in Housel's

Petition indicates that she has attempted to exhaust her state court remedies, and it is even unclear whether she intended to file her petition in federal court. Exhaustion is required before this Court can consider her petition. 28 U.S.C. § 2254(b); Rose v. Lundy, 455 U.S. 509, 522 (1982).

I find no clear error in Judge Ostby's Findings and Recommendation (dkt #5) and I adopt them in full. Plaintiff's Petition for Writ of Habeas Corpus (dkt #1) is DENIED WITHOUT PREJUDICE.

DATED this 9th day of August, 2006.



DONALD W. MOLLOY, Chief Judge
United States District Court